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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2008-357*

11 **LILIA SOTO NAVEA**
10082 Silver Meadow Court
12 Sacramento, CA 95829

A C C U S A T I O N

13 Registered Nurse License No. 280266

14 Respondent.

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16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
20 (Board), Department of Consumer Affairs.

21 2. On or about January 1, 1977, the Board issued Registered Nurse License
22 Number 280266 to Lilia Soto Navea (Respondent). The license was in full force and effect at all
23 times relevant to the charges brought herein and will expire on September 30, 2009, unless
24 renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (Code) unless
28 otherwise indicated.

1 registered nurse. Such an extreme departure means the repeated failure to provide nursing care as
2 required or failure to provide care or to exercise ordinary precaution in a single situation which
3 the nurse knew, or should have known, could have jeopardized the client's health or life."

4 9. California Code of Regulations, title 16, section 1443, provides that
5 "incompetence," as used in Code section 2761, "means the lack of possession of or the failure to
6 exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by
7 a competent registered nurse as described in Section 1443.5."

8 10. California Code of Regulations, title 16, section 1443.5 states:

9 "A registered nurse shall be considered to be competent when he/she consistently
10 demonstrates the ability to transfer scientific knowledge from social, biological and physical
11 sciences in applying the nursing process, as follows:

12 (1) Formulates a nursing diagnosis through observation of the client's physical
13 condition and behavior, and through interpretation of information obtained from the client and
14 others, including the health team.

15 (2) Formulates a care plan, in collaboration with the client, which ensures that
16 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
17 protection, and for disease prevention and restorative measures.

18 (3) Performs skills essential to the kind of nursing action to be taken, explains the
19 health treatment to the client and family and teaches the client and family how to care for the
20 client's health needs.

21 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
22 subordinates and on the preparation and capability needed in the tasks to be delegated, and
23 effectively supervises nursing care being given by subordinates.

24 (5) Evaluates the effectiveness of the care plan through observation of the client's
25 physical condition and behavior, signs and symptoms of illness, and reactions to treatment and
26 through communication with the client and health team members, and modifies the plan as
27 needed.

1 (6) Acts as the client's advocate, as circumstances require, by initiating action to
2 improve health care or to change decisions or activities which are against the interests or wishes
3 of the client, and by giving the client the opportunity to make informed decisions about health
4 care before it is provided."

5 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
6 request the administrative law judge to direct a licensee found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 FACTUAL BACKGROUND

10 12. On or about July 11 and 12, 1998, while working as an intensive care
11 nurse at Kaiser's Santa Theresa Medical Center in San Jose, Respondent undertook the care of a
12 59-year-old post-surgical patient with a nasogastric feeding tube improperly placed in the
13 patient's left lung cavity by another nurse.¹ Respondent did not make a proper assessment of the
14 placement of the nasogastric tube prior to initiating tube feeding, did not chart assessment of the
15 tube placement, did not halt feeding when the patient showed indications of respiratory distress,
16 and did not properly check the patient for residual feedings. The patient died the following day;
17 the Santa Clara County Medical Examiner attributed her death to atelectasis² and pneumonia, due
18 to the presence of 800cc of creamy food material in the left pleural cavity.

19 FIRST CAUSE FOR DISCIPLINE

20 (Gross Negligence and/or Incompetence)

21 13. Respondent is subject to disciplinary action for gross negligence and/or
22 incompetence pursuant to section 2761, subdivision (a)(1), in that she failed to properly assess
23 placement of a nasogastric tube in a post-surgical patient, as described in paragraph 13, above.

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25 1. The patient, who had Graves' disease (hyperthyroidism), had undergone a subtotal
26 thyroidectomy on July 7, 1998. She suffered post-operative respiratory distress and vocal chord
paralysis requiring a tracheotomy and nasogastric tube feeding.

27 2. Atelectasis is the collapse of part or all of a lung. It is caused by a blockage of the air
28 passages (bronchus or bronchioles) or by pressure on the lung.

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SECOND CAUSE FOR DISCIPLINE

(Gross Negligence and/or Incompetence)

14. Respondent is subject to disciplinary action for gross negligence and/or incompetence pursuant to section 2761, subdivision (a)(1), in that she failed to recognize the improper placement of a nasogastric tube in her patient's left lung cavity prior to initiating tube feeding, as described in paragraph 13, above.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence and/or Incompetence)

15. Respondent is subject to disciplinary action for gross negligence and/or incompetence pursuant to section 2761, subdivision (a)(1), in that she failed to properly assess her patient for residual feeding, as described in paragraph 13, above.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence and/or Incompetence)

16. Respondent is subject to disciplinary action for gross negligence and/or incompetence pursuant to section 2761, subdivision (a)(1), in that she failed to properly respond to her patient's increasing respiratory difficulty, as described in paragraph 13, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

17. Respondent is subject to disciplinary action for unprofessional conduct pursuant to Code section 2761, subdivision (a), in that she failed to document assessment of her patient's nasogastric feeding tube, as described in paragraph 13, above.

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1 PRAYER

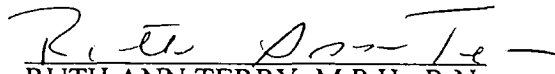
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 280266, issued
5 to Lilia Soto Navea;

6 2. Ordering Lilia Soto Navea to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3; and,

9 3. Taking such other and further action as deemed necessary and proper.
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11 DATED: 6/18/08
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14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
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